

Robert W. Seiden

Court-Appointed Fund Distribution Administrator
Pursuant to the Order of The Honorable Judge
Pamela K. Chen of the United States District Court,
Eastern District of New York

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May 13, 2025

VIA ECF

Hon. Pamela K. Chen
Courtroom 4F
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Securities and Exchange Commission v. Richard Xia, a/k/a Yi Xia et. al.
21-cv-05350-PKC-JAM
Letter Motion to Compel Defendants' Compliance with the Court's April 2,
2025 Order and Produce the Court-Ordered Contact Information and
Documents**

Dear Judge Chen:

I write to update the Court concerning Defendants Richard Xia (“**Xia**”) and Fleet New York Metropolitan Regional Center’s (“**Fleet**,” and together with Xia, the “**Defendants**”) failure to comply with Your Honor’s April 2, 2025 Text Order, which granted the Distribution Administrator’s request (ECF 568) and directed Defendants to produce contact information and/or documents sufficient to show, for each of the 142 EB-5 investors with missing contact information (“**Missing Investors**”),¹ the following: mailing address, email address, phone number, WeChat account number, and contact information for his or her immigration counsel (the “**Production Order**”). To date, Defendants have not produced any additional information regarding the Missing Investors’ contact information, nor have they produced a single document reflecting contact information of any Missing Investor. As set forth in detail below, I respectfully request that the Court issue an order compelling Defendants to comply with the Court’s April 2, 2025 Order and produce the information and documents identified herein.

On April 15, 2025, the Distribution Administrator contacted Defendants’ counsel to request production of the Court-ordered information and documents, including, among other items, the WeChat account numbers of the investors. *See* Exhibit 2.² On April 18, Defendants’ counsel responded, acknowledging the scope of the Court’s Production Order but reiterating their previous position that Defendants “have provided all contact information currently in [their clients’]

¹ As a result of the Distribution Administrator’s outreach efforts—through publication in newspapers, WeChat public accounts, and other channels—the number of Missing Investors has now been reduced to **109**. An updated list for the Missing Investors is attached hereto as **Exhibit 1**.

² The correspondence between the Distribution Administrator and Defendants’ counsel is attached hereto as **Exhibit 2**

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possession.” *See id.* While acknowledging the existence of WeChat groups associated with EB-5 Investors, Defendants’ counsel stated that “based on conversations with our client,” they understand that “many WeChat groups used for investor communications were populated by individuals invited by third parties, such as friends or acquaintances,” and contended that “even when participant application numbers are provided, there is no reliable method to confirm whether a particular WeChat account corresponds to a verified EB-5 investor.” *Id.* Defendants’ counsel represented that they “will supplement [their] production with any verifiable information that becomes available,” but have not supplemented their production.

On April 30, 2025, the Distribution Administrator reminded Defendants that the Court’s Production Order requires Defendants to not only produce contact information in summary form, but Defendants’ obligations extend to the production of documents sufficient to establish such contact information. *See* Exhibit 2. Also, the Distribution Administrator pointed out that Defendants had previously represented to the Court that certain EB-5 investors had contacted them via WeChat, and the Court’s Order (which extends beyond the WeChat group information referenced in their April 18 email) encompasses EB-5 Investors’ individual WeChat account numbers. *See* ECF No. 543. As to the EB-5 Investor WeChat groups, the Distribution Administration noted that Defendants had failed to supply the contact information of the respective group organizers, which should be readily accessible to everyone in the group and would facilitate outreach to the Missing Investors. *See id.*

On May 6, 2025, Defendants’ counsel responded, “[w]e have produced all available contact information in our clients’ possession.” The May 6, 2025 email makes no mention of the required WeChat information.

As the Court acknowledged during the April 2, 2025 Status Conference—and as further detailed below—Defendants’ assertions cannot possibly be accurate.

In connection with the New Commercial Enterprises (“NCE[s]”) that these Missing Investors invested in (EEGH II, L.P., EEGH, L.P., EMMCO NQMC, L.P., EMMCO Tower, L.P., and EMMCO, L.P.), the EB-5 Investors submitted documentation that reflects investor contact information:

- (1) EMMCO L.P.’s Limited Partnership Agreement—executed by and between Defendants and the EB-5 Investors—includes each investor’s residential address, telephone number, and facsimile number within the signature block. *See* ECF No. 568-3.

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- (2) The Limited Partnership Agreements for EMMCO NQMC, L.P. and EMMCO Tower, L.P. also reflect the residential address, telephone number, and facsimile number of each EB-5 Investor in their respective signature blocks. *See* Exhibit 3.³
- (3) With respect to EEGH, L.P. and EEGH II, L.P., although the respective Limited Partnership Agreements do not include the EB-5 Investors' contact information, each investor was required to execute a "Subscriber Suitability Questionnaire," which contains the investor's name, date of birth, current residential address, phone number, and email address. *See* Exhibit 4.⁴

Accordingly, as signatories to these documents and the General Partner of the relevant NCEs, Defendants have no basis to claim that they are not in possession or control of these documents. Nevertheless, Defendants have refused to comply with both the Court's Production Order and the Distribution Administrator's requests.

In light of the foregoing, the Distribution Administrator respectfully requests that the Court issue an Order:

- (1) Compelling Defendants to comply with the Court's April 2, 2025 Order and produce contact information and documents sufficient to show, for each of the Missing Investors, the following: mailing address, email address, telephone number, WeChat account number, and contact information for his or her immigration counsel by **May 20, 2025**.
- (2) Compelling Defendants to comply with the Court's April 2, 2025 Order and produce the WeChat account number(s) of any investor who communicated with Defendants (or Defendants' counsel) by WeChat and the account number(s) of the organizer(s) of the WeChat groups established by EB-5 Investors in connection with the EB-5 project, Fleet, and the NCEs associated with Fleet by **May 20, 2025**.

The Distribution Administrator further respectfully requests that the Court authorize the filing of a motion for contempt if Defendants fail to comply with these Court-ordered discovery obligations by May 20, 2025.

³ True and correct copies of the EMMCO NQMC, L.P. Limited Partnership Agreement and the EMMCO Tower, L.P. Limited Partnership Agreement are attached hereto as **Exhibit 3**.

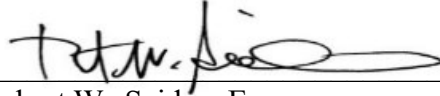
⁴ True and correct copies of the EEGH, L.P. Subscriber Suitability Questionnaires for and EEGH II, L.P. Subscriber Suitability Questionnaires are attached hereto as **Exhibit 4**.

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Respectfully,

A handwritten signature in black ink, appearing to read "Robert W. Seiden", written over a horizontal line.

Robert W. Seiden, Esq.

The Court-Appointed Fund Distribution
Administrator